REMARKS

Claims 1-14 are pending in the application. The claims were rejected in

the OA as follows.

Claims / Section	35 U.S.C. Sec.	References / Notes
1–3, 5–10, & 12–14	§102(b) Anticipation	• Mangold, et al. (U.S. Patent No. 4,972,487).
4 & 11	§103(a) Obviousness	• Mangold, et al. (U.S. Patent No. 4,972,487); and • Levitt, et al. (U.S. Patent No. 4,731,850).

5   Applicant provides the following discussion distinguishing the present

invention from the art cited against it.

35 U.S.C. §102(b), CLAIMS 1–3, 5–10, AND 12–14 ANTICIPATION BY MANGOLD

In the OA, on p. 1, the Examiner rejected claim 1 over Mangold and

identified the relevant portions of Mangold asserted as reading on the elements

10   of claim 1. Applicant respectfully traverses this rejection.

Mangold teaches a hearing aid that is capable of changing programs or

settings for the signal-processing. This changing can he performed manually or

automatically. Each user will require his or her individual number of settings

(1:23–34). There are problems if too many different programs are stored in the

15   hearing aid, but only a few of them are used. Therefore, the number of different

settings or programs stored In the hearing aid, is limited in Mangold. For such

limitation, a dispenser has to know which settings and programs are used by the

hearing aid wearer. In order to obtain information about these specific settings

and programs, a history of changes in settings is recorded in the hearing aid

(1:40–45). The dispenser then reads out the data stored In the data logging memory, Using this information, a new set of programs can be stored in the memory of the user's device (8:64 – 9:2). This means that Mangold only discloses a recording of setting changes, but does not use this information for

5   automatically controlling the hearing aid. Furthermore, the hearing aid disclosed by Mangold, does not automatically learn the settings in dependence of an actual environment situation.

The Examiner states that Mangold measures at least one sound quantity by "recording/data logging environmental events". However, the section cited by

10   the Examiner describes the recording or logging of a history of changes in setting only. Indeed, the memory permits "recording of environmentally selected events such as selection of settings," etc. This means that, for example, an environmental event initiates an automatic change of a program or setting. However, the actual environment situation Is not measured and recorded.

15   Furthermore, the Examiner states that the step of automatic learning is done by Mangold by "storing events and settings In memory based on recorded events". However, such a step of learning does not take place in the method of Mangold, since in this disclosure, only changes are recorded, but not further processed. The dispenser uses the information "manually" for selecting a new

20   set of programs to be stored in the memory of the hearing aid.

For this reason, Mangold fails to teach or suggest all of the elements of claim 1 and therefore does not anticipate claim 1. A similar argument can be

made for independent claims 7, 13, and 14 as well as dependent claims 2, 3, 5, 6, 8–10, and 12.

35 U.S.C. §103(a), CLAIMS 4 AND 11 OBVIOUSNESS OVER MANGOLD IN VIEW OF LEVITT

5   In the OA, on pp. 4–5, the Examiner rejected claims 4 and 11 over Mangold in combination with Levitt, noting that while Mangold does not expressly disclose the learning ensues via temporal weighting of learning steps, the use of temporal weighting of input signals is well-known in the art and Levitt teaches that learning ensues via temporal weight of learning steps (the measured

10   quantity is continuously monitored and the learning steps are weighted based on the frequency band and magnitude of the measured quantity, and the level detector generates a two-bit coefficient of the average signal level to set the frequency response of the programmable filter in accordance with the changing environmental situation. The Examiner then noted that it would have been

15   obvious to one of ordinary skill in the art at the time of the invention to utilize the temporal weight of Leavitt in the recording of input of Mangold to more accurately take into account changes in environmental conditions for automatic adjustment of the hearing aid.

       Applicant relies on the discussion above with regard to Mangold and the

20   independent claims of the application, and asserts that the addition of Levitt does not include a teaching for the elements that are not taught by Mangold. Furthermore, there is no teaching or suggestion for combining the teaching of Levitt with the teaching of Mangold to arrive at the claimed invention. The prior art must suggest the desirability of the claimed invention. (MPEP 2143.01(I). The

temporal learning of claims 4 and 11 must be viewed in the context of the

dependent claims from which they depend (claims 1 and 7 respectively), and the

contextless addition of the teaching of Levitt is not sufficient to obviate the

present reference. The fact that reference can be combined or modified is not

5   sufficient to establish *prima facie* obviousness (MPEP 2143.01(III))

For these reasons, the Applicant asserts that the claim language clearly

distinguishes over the cited prior art, and respectfully requests that the Examiner

withdraw the §103 rejection from the present application.

CONCLUSION

10   Inasmuch as each of the objections have been overcome by the

amendments, and all of the Examiner's suggestions and requirements have been

satisfied, it is respectfully requested that the present application be reconsidered,

the rejections be withdrawn and that a timely Notice of Allowance be issued in

this case.

15   Respectfully submitted,

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